IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHERALINA BAKER, on behalf of herself and all others similarly situated, Plaintiffs v. FAMILY CREDIT COUNSELING CORPORATION, 4850 N. State Road 7 Suite G-104 Lauderdale Lakes, FL 33319 and DEBT SOLUTIONS FOUNDATION, INC. 4800 N. State Road 7 Suite F-112 Lauderdale Lakes, FL 33319 and JAMES R. ARMSTRONG, JR. 4800 N. State Road 7 Suite F-112 Lauderdale Lakes, FL 33319 IGOR M. GELMAN 3800 S. Ocean Drive #1824 Hollywood, FL 33019 Defendants.	:	CIVIL ACTION NO. **CLASS ACTION** JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Sheralina Baker, by her undersigned counsel, upon personal knowledge with respect to herself and her own acts, and upon information and belief with respect to all other matters, avers as follows:

NATURE OF THE ACTION

1. This is a consumer class action brought on behalf of consumers who have entered into debt management plans and agreements with Defendants Family Credit

Counseling Corporation and Debt Solutions Foundation, Inc. for debt consolidation and debt management services. Defendants have engaged in a on-going fraudulent scheme by which defendants obtain service fees and monthly payments from consumers under the false pretenses that the monies received by defendants, will be paid to the creditors of consumers. In actuality, defendants retain the monthly payments for their own use and benefit and either never pay the creditors of consumers or hold on to the monies for several months, before making any payments on consumer accounts. If and when defendants disburse any payments to creditors of consumers, such payments are sporadic and far less than the sums paid originally paid to defendants by consumers.

DESCRIPTION OF THE SCHEME

2. Defendants market, promote and sell these debt management plans ("DMP") as a means for consumers to consolidate, manage and pay off their debts, with the assistance and experience of professionals in credit counseling "who are experienced and acclaimed." In uniform written materials, defendants represent that their professional counselors will set up a unique plan for consumers which will have consumers debt free within a dramatically shorter time and will reduce consumers' monthly payments. Defendants further represent that servicing of the DMPs will be handled by their affiliate, a non-profit consumer counseling institution which is "required to adhere to full disclosure and meet stricter specifications with lucrative concessions already in place from just about every major creditor." Defendants charge consumers a sign-up fee of $199.00 to purchase and enroll in a DMP.

3. Defendants promote Family Credit Counseling Corporation through the

internet and in uniform written materials as a non-profit credit counseling and servicing agent with extensive experience in helping consumers obtain financial freedom from debt, without resorting to bankruptcy. Defendants' solicitations lead consumers to believe that Family Credit Counseling Corporation has relationships and agreements with creditors which will reduce and eliminate consumers' debts and interest, if consumers enroll in defendants' DMPs.

4. After consumers pay the sign up fee, defendants operate as a common enterprise through the defendant Family Credit Counseling Corporation representing that they have contacted, negotiated with and send proposals for consolidated debt payment plans to each of the creditors of consumers. Defendants then set up a monthly payment schedule for the consumers, and collect one consolidated monthly payment for all of a consumer's identified unsecured debts, often by automatic withdrawal from consumers' bank accounts. Defendants represent that the consolidated monthly payment will be immediately divided among and disbursed to the designated creditors of consumers on the DMP to pay down their debts. Defendants charge consumers a service fee of $6.00 for each creditor who is scheduled to receive payments by defendants out of the consumers' consolidated monthly payment.

5. Defendants lull consumers into believing that their consolidated monthly payments are being disbursed to creditors and applied to their outstanding consumer debts in accordance with the DMP by creating and mailing to consumers monthly statements on Family Credit Counseling Corporation letterhead purporting to show defendants' receipt of consumers' monthly payment, and a corresponding payment or disbursement by defendants to each of the creditors of consumers under the DMP.

The monthly statements created and sent by defendants also set forth projected account balances for each consumer account after the scheduled payments are disbursed by defendants to the creditors on the plan, noting the account numbers and the monthly disbursements. The monthly statements also record the service fee of $6.00 per creditor account as a “Contribution” to their alleged non-profit organization Family Credit Counseling Corporation.

6. In actuality, defendants do not disburse the monies they receive from consumers to creditors according to the DMPs or as represented in the monthly statements defendants send to consumers. To the contrary, defendants keep the monies received from consumers for the economic benefit and use of defendants’ other for profit companies and the private persons who own and control these companies, all of whom operate and conduct business from the same business location and offices of the alleged non-profit defendant Family Credit Counseling Corporation in Florida and North Carolina.

7. Defendants also lull consumers into believing that the payments are being disbursed to creditors in accordance with defendants’ monthly statements through uniform written documents which state that there is a three month or more waiting period before consumers will see the payments reflected in their statements from creditors. During this time, consumers believe that the payments which are being automatically withdrawn from their bank accounts or sent by check to defendants are being applied to their creditor accounts by defendants in accordance with the DMPs and monthly statements fraudulently created and mailed by defendants. In actuality, the monies paid to defendants by consumers for payment of consumer debt are

retained, converted and used by defendants, who either never paid the allocated funds to the creditors of consumers or substantially delay and hold onto plaintiffs' funds for several months.

8. When consumers contact the individual creditors who are supposed to be receiving disbursements from defendants under the DMPs, consumers learn that such payments were never made and that defendants have not contacted or submitted proposals for debt payment to their creditors.

9. In addition to the loss of their monthly payments and service fees sent to defendants, as a result of defendants' scheme and failure to disburse payments to creditors as represented, consumers continue to incur mounting late fees, additional interest, and charges resulting in inflated debt balances.

10. Defendants created and operate Family Credit Counseling Corporation as the vehicle to collect service fees, charges and monthly payments from unsuspecting consumers under the guise of debt management plans. Defendants applied for and obtained 501(c)(3) status from the Internal Revenue Service to operate Family Credit Counseling Corporation for the illegal purpose of collecting money from consumers by fraud. Defendants intentionally created Family Credit Counseling Corporation as a non profit organization in order to circumvent and evade liability for their actions in violation of the Federal Credit Repair Organization Act, 15 U.S.C. § 1679 *et seq.*, when in actuality, defendants controlled and operated Family Credit Counseling Corporation for the economic benefit of defendants' affiliated for-profit companies and the defendant individual owners of those for-profit companies.

11. Individually or jointly in concert with others, defendants have received

funds and other property that were derived unlawfully from payments by consumers as a consequence of the acts and practices complained of herein, and defendants so not have a legitimate claim to those funds.

12. Defendants' acts, practices, and course of business were designed to and resulted in the perpetration of a fraud and deception upon consumers to obtain substantial services fees, and funds from consumers accounts for defendants' own use and benefit, in violation of the Federal Credit Repair Organization Act, 15 U.S.C. § 1679 *et seq.*, the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 *et seq.*, state consumer statutes including the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1 *et seq.*, and the common law.

PARTIES

13. Plaintiff Sheralina Baker is an adult individual who is a citizen of Pennsylvania currently residing at 1100 East Mount Airy Avenue, Apt. A-3, Philadelphia, Pennsylvania 19150. Plaintiff enrolled in defendants' alleged debt management plan, paid services fees to defendants and authorized defendants to make obtain monthly automatic withdrawals in the amount of $153.00 from her checking account, which monies defendants agreed to disburse to plaintiff's creditors on the plan.

14. Defendant Family Credit Counseling Corporation ("FCCC") is a Florida corporation, allegedly registered as a non-profit organization, with its principal place of business located at 4850 N. State Road 7, Suite G102, Lauderdale Lakes, Florida 33319. Defendant FCCC also conducts business from offices located at 7516 E.

Independence Blvd. Suite 110, Charlotte, North Carolina 28277. Although defendant FCCC has applied for and describes itself as holding 501(c)(3) non-profit status from the Internal Revenue Services, in actuality, defendant FCCC is a credit repair organization since it operates for the economic benefit of several affiliated for-profit companies and the individuals who own and control those for profit companies, many of which share the same business offices as defendant FCCC. At all times material hereto defendant FCCC engaged in the marketing of debt consolidation and debt management services, and collected fees, service charges and funds for payments to creditors from consumers.

15. Defendant Debt Solutions Foundation, Inc. ("Debt Solutions") is a Florida corporation, with its principal place of business located at 4800 N. State Road 7, Suite F-12, Lauderdale Lakes, Florida 33319. Defendant Debt Solutions Foundation, Inc. also conducts business from offices located at 7516 E. Independence Blvd. Suite 110, Charlotte, North Carolina 28277. At all times material hereto defendant Debt Solutions Foundation engaged in the marketing of debt consolidation and debt management services, and collected fees, service charges and funds for payments to creditors from consumers.

16. Defendant FCCC and defendant Debt Solutions conduct business from the same offices located at (a) 4800 N. State Road 7, Suite F-12, Lauderdale Lakes, Florida and at (b) 7516 E. Independence Blvd. Suite 110, Charlotte, North Carolina 28277.

17. Defendant James R. Armstrong (“Armstrong”) is an Officer, Director, and Shareholder and Founder of both of the Defendant corporations, FCCC and Debt

Solutions. Defendant Armstrong also is an Officer, Director, Founder and/or Manager of defendants' affiliated for profit entities JRA Property & Land Management, LLC. and Consumer Financial Marketing, Inc. which defendant Armstrong operates and controls from the same offices of defendants FCCC and Debt Solutions located at 4800 N. State Road 7, Suite F-12, Lauderdale Lakes, Florida 33319. Defendant Armstrong also is an Officer, Director, Founder and/or Manager of defendants' affiliated for profit entity, Consumer Debt Management & Education, Inc. which defendant Armstrong operates and controls from the offices of defendants FCCC and Debt Solutions located at 7516 E. Independence Blvd. Suite 110, Charlotte, North Carolina 28277. At all times material hereto, upon information and belief, defendant Armstrong controlled, directed, commingled and intermingled funds received from consumers among and between the defendant corporations and defendants' other affiliated entities for defendants' own economic use and benefit.

18. Defendant Igor M. Gelman ("Gelman") is an Officer, Director, Shareholder and Founder of both of the defendant corporations, FCCC and Debt Solutions. Defendant Gelman is also an Officer, Director, Founder and/or Manager of defendants' affiliated for profit entity, JEG Investements, LLC which defendant Gelman operates and controls from the same offices of defendants FCCC and Debt Solutions located at 4800 N. State Road 7, Suite 112, Lauderdale Lakes, Florida 33319. At all times material hereto, upon information and belief, defendant Gelman controlled, directed, commingled and intermingled funds received from consumers among and between the defendant corporations and the defendants' other affiliated entities for defendants' own use and benefit.

19. Defendants Armstrong and Gelman, individually or in concert with others, direct, control, formulate, or participate in the acts and practices alleged in this complaint and transact or have transacted business in this District.

20. Defendants Debt Solutions, Armstrong, and Gelman continue to operate and have operated as a common enterprise through the defendant FCCC, using defendant FCCC as a vehicle to fraudulently and illegally obtain money from consumers, which defendants then converted to their own use and benefit.

21. All of the named defendants and each of them acted jointly and severally, and are associated with one another, participated in the scheme described herein with each other and benefitted from the scheme to defraud the named plaintiffs and the Class herein.

JURISDICTION AND VENUE

22. This Court has jurisdiction over the First Count for relief herein under the Credit Repair Organization Act, 15 U.S.C. § 1679 et seq. and 28 U.S.C. § 1331.

23. This Court has jurisdiction over the Second and Third Counts for relief herein under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. §1964(c) and 28 U.S.C. §1331.

24. This Court has jurisdiction over the Fourth through Sixth Counts for relief herein under the doctrine of ancillary and pendant jurisdiction pursuant to 28 U.S.C. § 1367.

25. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. 1391 (b) and (c) because a substantial part of the events giving rise to plaintiff’s claim occurred within this judicial district and defendants transact business in this

district through interactive websites, including www.familycredithelp.org and www.debtsolutionsfoundation.com, through nationwide marketing, interstate mailings and telephone contacts.

CLASS ACTION ALLEGATIONS

26. Plaintiff brings this action individually and as a class action under Rules 23 of the Federal Rules of Civil Procedure on behalf of herself and a nationwide class of consumers who enrolled in defendants' DMPs or debt payment programs, and who were charged (a) sign up fees; (b) contributions and/or service fees by defendants and/or (c) who made consolidated monthly payments to defendants pursuant to a DMP schedule between November 23, 1998 through the present.

27. Given the nature and extent of defendants' DMP solicitations and the representations set forth on defendants' websites, thousands of consumers have enrolled in debt management plans with defendants. Plaintiff believes that the Class will number in the thousands. The precise number of the such persons is unknown to plaintiff at this time, but the identities and locations of such persons can be ascertained from defendants' records. With regard to all of plaintiffs' claims, the class is so numerous that joinder of all members is impractical.

28. Plaintiff's claims are typical of the claims of the members of the Class. Defendants applied the same or substantially the same course of conduct and deceptive practices in (a) marketing their debt management plans; (b) collecting sign-up fees, contributions, services charges under the DMPs; and (c) collecting consolidated monthly payments from consumers for disbursement to creditors, which monies defendants failed to remit to consumers' creditors under the DMPs, but instead retained

and converted for the economic benefit of defendants and defendants for-profit affiliated entities.

29. Plaintiff will fairly and adequately protect the interest of the Class. Plaintiff has no conflict of interest with other members of the Class. Plaintiff has retained experienced counsel qualified in class action litigation who are competent to assert the interest of the Class.

30. There are questions of law or fact common to the Class, and these questions of law or fact common to the members of the Class predominate over any questions affecting only individual members. Among the questions or law or fact common to the Class are:

(a) Whether defendants violated the Federal Credit Repair Organization Act as a result of their false and misleading statements, omissions, and business practices;

(b) Whether defendants engaged directly or indirectly in any act, practice or course of business that constitutes or results in the commission of a fraud or deception upon consumers in connection with the sale of services of credit repair organizations;

(c) Whether defendants charged or received money, or fees for performance of services which defendants agreed to perform for consumers before such services were fully performed,

(d) Whether defendants uniform marketing and solicitation materials were misleading or deceptive;

(e) Whether defendants conduct as alleged in this Complaint violated state consumer protection laws and state common law;

(f) Whether defendants converted and/or used the monies of the consumer class for their own benefit and purposes and/or as a result of self-dealing;

(g) Whether defendants are liable to Plaintiff and the Class for violations of the Racketeer Influenced and Corrupt Organizations Act;

(h) Whether defendants use various entities as racketeering enterprises;

(I) Whether defendants' activities constitute a pattern of racketeering activity;

(j) Whether defendants have been unjustly enriched;

(k) Whether Plaintiff and the Class are entitled to compensatory damages;

(l) Whether as a result of defendants' oppression, fraud or malice, the Plaintiff and the Class are entitled to punitive damages and the amount of such damages;

(m) Whether defendants should be declared financially responsible for notifying all Class members of their misconduct, and for the damaged Class members have suffered;

(n) Whether defendants should be enjoined from further conduct as alleged herein; and

(o) Whether Plaintiff and the Class are entitle to disgorgement and full restitution.

31. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy because such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence,

efforts and expense that numerous individual actions would engender. Class treatment will also permit the adjudication of relatively small claims by members of the Class who cannot afford to litigate such claims against corporate defendants.

32. Plaintiff knows of no difficulty to be encountered in the management of the action that would preclude maintenance as a class action.

33. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(3) because common questions of law and fact concerning defendants' liability predominate over any individual questions pertaining to the claims of any class member; a class action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable; and the expense and burden of individual litigation makes it impracticable for the members of the class to pursue individual litigation in order to vindicate their rights and recover the monies unlawfully and fraudulently obtained by defendants.

34. This case should be certified as a class action pursuant to Fed. R. Civ. P. 23(b)(1) because the prosecution of separate actions by numerous individual Class members would create a risk of inconsistent or varying adjudications as to the defendants' standards of conduct.

35. This case should be certified as a class action pursuant to Fed. R. Civ. P. 23(b)(1) also because adjudications with respect to individual members of the Class would as a practical matter be dispositive of the interests of the other members of the Class or substantially impair their ability to protect their interests.

36. Class certification pursuant to Fed. R. Civ. P. 23(b)(2) is appropriate because defendants have acted or refused to act on grounds generally applicable to

the Class, thereby making appropriate final injunctive or corresponding declaratory relief with regard to the members of the Class as a whole.

FACTUAL ALLEGATIONS

37. Historically, credit counseling organizations have been non-profit companies which offer consumers with financial difficulties advice from credit counselors, which may include developing a budget and providing advice on reducing expenses. When appropriate, these bona fide not-for profit counseling organizations may combine consumer education and budget planning with debt management plans or DMPs. These DMPs allow consumers to pay the credit counseling organization one consolidated monthly payment for all of their unsecured debts that are included in the plan. After the monthly payment is collected, the organization disburses payments to the creditors on the plan. Creditors often offer reduced interest rates and waiver of charges to consumers paying off their debts under a DMP.

38. Preying on the financial difficulties of consumers and the notion of bona fide counseling organizations, defendants promote FCCC and Debt Solutions as “a family” of debt consolidation professionals dedicated to helping American families achieve a debt free life.

39. In reality, these defendants are perpetrating a deceptive and fraudulent scheme to entice consumers suffering from severe financial hardships to enroll in DMPs sold and serviced by defendants.

40. The promotional materials used by defendants to sell DMPs are comprised of false, misleading and deceptive promises and statements, and consumers are mislead to believe that defendants will act as the consumer’s agent and

intermediary and will contact and negotiate a debt payment plan with consumers' creditors, when in fact, defendants intend to arbitrarily set up a monthly payment schedule for consumers without contacting or submitting proposals for payment to consumers' creditors as represented.

41. For example, in uniform marketing materials and through the internet defendants represent to consumers that "Our program features full time in office counselors who are experienced and acclaimed, that set up a unique plan within the lenders protocol that can have you debt free in a dramatically shorter time as well as the probability of reducing your monthly payments."

42. Additionally, in uniform Q and As provided to consumers, defendants represent that their experienced counselors will develop a personalized Debt Management Program for each consumer with payments determined as follows: "Each creditor requires a minimum payment to qualify you for the program. All creditors have different requirements for acceptance. The payment is based on your particular mix of creditors and your balances." Defendants further represent to consumers that "we work with over 50,000 creditors"

43. Defendants implement payment plans for consumers based upon representations that defendants have made and submitted proposals for payment plans to the creditors of consumers when in fact, defendants fail to make any proposals to creditors, and fail to contact the creditors of consumers. Then, when defendants receive the payments from consumers made pursuant to these so-called Debt Management Plans, defendants keep the money of consumers and fail to forward the payments made by Plaintiff and the Class to their creditors.

44. In reality, defendants have designed and implemented a scheme by which defendants receive a stream of fees and payments from consumers which defendants convert, retain and use for their own financial use and economic benefit, while consumers continue to incur inflated interest charges, and late fees on their accounts with creditors.

45. Defendants FCCC and Debt Solutions are credit repair organizations owned and controlled by defendants Armstrong and Gelman, who operate other affiliated for profit entities, including JRA Property & Land Management, LLC., Consumer Financial Marketing, Inc. and JEG Investements LLC, from the same office locations and addresses as defendants FCCC and Debt Solutions.

46. Defendants Armstrong and Gelman are the majority and controlling shareholders and/or owners of defendants Debt Solutions and FCCC, and operate the companies as credit repair organizations, through use of instrumentalities of interstate commerce and the mails to sell, provide and perform services for the purposes of improving consumer's credit record, credit history and/or credit rating.

47. Defendants Armstrong and Gelman and/or the affiliated companies they control have received funds and other property that were derived unlawfully from payments by consumers as a consequence of the acts and practices complained of herein, and do not have a legitimate claim to those funds.

48. Defendants entice consumers to enter into a fiduciary relationships with defendants and participate in defendants' DMPs by misrepresenting that consumers' plans will be serviced by legitimate non-profit consumer counseling institutions with extensive experience. In fact, on the Debt Solutions website, defendants Debt

Solutions, Armstrong and Gelman attempt to clothe their practices with integrity by representing that "Non-profit organizations are required to adhere to full disclosure and meet stricter specifications, with lucrative concessions already in place from just about every major creditor."

49. Instead, defendants Armstrong and Gelman intentionally founded the defendant FCCC as a non-profit organization, for the sole purposes of using the company as the vehicle to illegally collect money from consumers.

50. By applying to the Internal Revenue Service for non profit status for the defendant FCCC, defendants Armstrong and Gelman intended to mislead the public into believing that FCCC was operating as a bona fide counseling organization, so that defendants could illegally collect money from Plaintiff and other unsuspecting consumers.

51. Defendants also intended to use the non profit status of FCCC as a shield from the truth and full disclosure requirements imposed upon credit repair organizations under the Federal Credit Repair Organization Act which is intended to protect consumers from the unscrupulous practices of credit repair organizations and debt collectors. By setting up FCCC as a non profit company to serve as the vehicle for their scheme, defendants intended to evade liability for violations of the Federal Credit Repair Organization Act and for the damages suffered by Plaintiff and the Class of consumers as a result of defendants' scheme.

52. Defendants Armstrong, Gelman, and Debt Solutions, directed, controlled and orchestrated the collection of consumer payments through the defendant FCCC, which was formed by defendants as a non-profit company solely for the illegal purposes

of collecting consumer fees and monthly payments and transferring the monies to defendants and their affiliated for profit organizations pursuant to the foregoing scheme.

53. At all times material hereto, defendant FCCC operated for the economic benefit of defendants' affiliated for-profit companies and the defendant individual owners of those for-profit companies, and is a credit repair organization under the Federal Credit Repair Organization Act.

54. Defendants Armstrong and Gelman have misused the corporate forms of defendants Debt Solutions and FCCC to intentionally commit a fraud upon the public and to evade liability for claims resulting from abuse and self dealing in connection with the operation of credit repair organizations, including claims of the Plaintiff and the Class herein.

55. Defendant Armstrong and Gelman exercised complete dominion and control over defendants Debt Solutions and FCCC, such that these companies are their alter egos, shams and mere instrumentalities for defendant's own personal profit.

56. When the consumer income paid by Plaintiff and Class members is collected by the defendant FCCC, the so-called non-profit consumer counseling institution, the income is then controlled, manipulated, intermingled and shared with the individual defendants Armstrong and Gelman and their affiliated for profit entities, including the defendant Debt Solutions.

57. At all material times hereto, the defendants conspired with each other to engage in the various activities set forth herein, agreed to participate in the operation of a conspiracy to defraud the named Plaintiff and members of the Class herein and aided and abetted one another in these activities as described in detail herein.

58. During material times hereto, and in furtherance and for the purpose of executing a scheme and artifice to defraud, the defendants on numerous occasions, used and caused to be used instrumentalities of interstate commerce, interactive websites, interstate electronic communications, interstate telephone commerce and the United States mails to sell, provide and make representations concerning defendants' services in debt management and credit repair.

59. On numerous occasions, the defendants used and caused to be used mail depositories of the United States Postal Service by both placing and causing to be placed mailable materials in said depositories and by removing and causing to be removed mailable materials from said depositories. Each such use of the United States mails in connection with the scheme and artifice to defraud Plaintiff and members of the Class constituted the offense of mail fraud prohibited by 18 U.S.C. § 1341. The instances of mail fraud were a substantial factor in a sequence of responsible causation; and the injuries to Plaintiff and the Class were reasonably foreseeable, intended or anticipated as a consequence of the mail fraud; and as a result, thereof, Plaintiff and members of the Class have been damaged by the mail fraud.

60. Defendants charge a start-up fee of $199.00 to enroll in their DMPs which must be paid by consumers before any services are provided to consumers.

61. As part of enrollment in defendant Debt Solutions DMPs, defendants require consumers to sign uniform Service Agreements with defendant FCCC, which require consumers to pay monthly management fees of $6.00 for each creditor listed on a consumers' DMP. However, in keeping with their false portrayal of FCCC as a non profit counseling organization, defendants record these fees on their monthly

statements to consumers as "Contributions" to the defendant FCCC.

62. The Service Agreements require consumers to agree that "if for any reason, the program is discontinued, all fees paid to FCCC are non-refundable."

63. Defendants also require consumers to execute a uniform "Limited Power of Attorney" authorizing defendant FCCC to act as the fiduciaries of consumers to disclose information to creditors and to negotiate with creditors on the behalf of consumers. The Limited Power of Attorney states that defendants have a No-Refund Policy for any monthly payments or fees paid by consumers to defendants pursuant to a DMP.

64. On or about March 2003, after contacting defendants through their interactive websites, Plaintiff paid a start-up fee of $199 to enroll in defendants' DMP through defendant Debt Solutions; executed a Service Agreement with defendant FCCC; and signed a Limited Power of Attorney in favor of defendant FCCC.

65. Following receipt of the start-up fee, defendants send out by mail uniform welcoming letters to consumers, representing that from that date forward, the defendants "will act as intermediaries between you and the credit card companies. You are no longer required to answer call from those companies. If you receive ANY calls, please advise them to contact us at (888) 845-4027."

66. Defendants' welcoming letter sent to Plaintiff and the Class, includes an Automatic Withdrawal form which authorizes the defendants to receive automatic withdrawals of monthly payments and fees directly from the bank accounts of consumers. At the time the Automatic Withdrawal form is sent to consumers, defendants fraudulently represent that "We have already sent [debt payment] proposals

out to your creditors."

67. Defendants' welcoming package mailed to consumers also includes a form entitled "Questions and Answers about my Debt Management Program", which represents that defendants have already made payment plan proposals to the consumer's creditors, and that creditors are willing to work with defendants' program because defendants "work with over 50,000 creditors."

68. After defendants begin to receive monthly payments from consumers such as Plaintiff and the Class, defendants send Class members monthly statements created on FCCC letterhead representing that defendants have made timely disbursements from the monies entrusted to defendants from consumers for payment to the creditors of consumers. The statements also include an Estimated Balance of the accounts after payment.

69. Defendants create and mail these monthly statement to consumers in order to lull consumers into believing that the consolidated monthly payments consumers are paying to defendants under the DMPs are being disbursed by defendant to their creditors and applied to their outstanding consumer debts in accordance with the DMP. The monthly statements purport to show defendants' receipt of consumers' monthly payment, and a corresponding payment or disbursement by defendants to each of the creditors of consumers under the DMP. The monthly statements created and sent by defendants also set forth projected account balances for each consumer account after the scheduled payments were disbursed by defendants to the creditors on the plan, noting the account numbers and the monthly disbursements. The monthly statements also record a service fee of $6.00 per creditor account as a "Contribution" to

their non-profit organization FCCC.

70. Additionally, defendants have designed their uniform marketing materials to lull consumers into a false sense of security that defendants are making timely payments on their behalf from the monthly payments and fees entrusted to defendants with representations that "there is a 3 month waiting period to see changes reflect on your statements from creditors", when in fact, defendants convert the money received from consumers to their own use and benefit during this period.

71. When consumers question defendants' practices concerning payments to creditors, defendants create and send to consumers false payment histories, purporting to show a listing of checks by number, bank account, payee and date of check so as to mislead consumers into believing that defendants have made payments to creditors on behalf on consumers pursuant to the DMPs. In fact, the payments were never made at all by defendants or were never made in the amounts and on the dates indicated on the payment history.

72. In reliance on the representations made by defendants, and particularly that defendants would operate with the integrity, truthfulness and care of a fiduciary on her behalf, Plaintiff authorized defendants to make automatic withdrawals of $153.00 from her account.

73. Defendants represented that Plaintiff's consolidated monthly payment of $153.00 was calculated and based upon known percentages of the outstanding bills that the creditors had agreed to accept.

74. The monthly payment of $153.00 was to be applied to four of Plaintiff's consumer credit accounts and the amount of $24.00 was to be deducted from the

payment as defendants' fee for negotiating with and paying Plaintiff's four creditors.

75. After the defendants began withdrawing the monthly payments from Plaintiff's account, defendants began to send Plaintiff monthly statements representing that defendants had made payments on behalf of Plaintiff to the four creditors listed in Plaintiff's DMP.

76. Instead, defendants automatically withdrew a monthly payment of $153.00 from Plaintiff's account for five months and never disbursed any of these monies to Plaintiff's creditors. Moreover, defendants never approached or even contacted Plaintiff's creditors with any debt payment proposals. Throughout this period, Plaintiff was lulled into a false sense of security that payments were being made to her creditors based upon defendants' representations in the FCCC monthly statements, on their websites and in their uniform marketing materials and enrollment forms.

77. When Plaintiff questioned the fact that none of her account balances had decreased, defendants created and sent to Plaintiff a payment history statement which purported to show disbursements to Plaintiff's creditors, when in fact, no such payments had been made from the five automatic withdrawals of $153.00 defendants took from Plaintiff's bank account.

78. As a result of defendants' retention of the funds from consumers, defendants' failure to make payments to creditors on behalf of consumers; and defendants' failure to timely pay the creditors of consumers, Plaintiff and Class members have suffered damages including charges for illusory service fees, loss of monthly payments made to defendants and inflated interest charges, late fees and other charges imposed by creditors.

FIRST COUNT
VIOLATIONS OF THE CREDIT REPAIR ORGANIZATION ACT

79. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as though set forth herein.

80. In enacting the Federal Credit Repair Organization Act, Congress made the following findings:

(a) Consumers have a vital interest in establishing and maintaining their credit worthiness and standing in order to obtain and use credit. As a result, consumers who have experienced credit problems may seek assistance from credit repair organizations which offer to improve the credit standing of consumers; and

(b) Certain advertising and business practices of some companies engaged in the business of credit repair services have worked a financial hardship upon consumers, particularly those of limited economic means and are inexperienced in credit matters.

81. The purpose of the Federal Credit Repair Organization Act is to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.

82. Plaintiff and each Class member is a “consumer” as that term is defined in 15 U.S.C. § 1679a.

83. Defendants are “credit repair organizations” as that term is defined in 15 U.S.C. § 1679a(3)(A).

84. Plaintiff, each Class member and each Defendant is a “person” as that term is used in 15 U.S.C. §1679b and 1679g.

85. In violation of 15 U.S.C. §1679b, defendants have made untrue and misleading representations of the defendants’ services as credit repair organizations as more specifically set forth above.

86. Defendants have engaged directly or indirectly in the foregoing described acts, practices, and deceptive course of business to commit and attempt to commit a fraud or deception on Plaintiff and Class members in connection with the offer or sale of the defendants services for credit repair in violation of 15 U.S.C. §1679b(a)(4).

87. Defendants have charged and received money and other valuable consideration for the performance of credit repair services, as more specifically set forth above, which the defendants agreed to perform before such services were fully performed in violation of 15 U.S.C. §1679b(b).

88. Defendants have made and used untrue and/or misleading representations of the services to be performed by the defendants credit repair organizations as more specifically set forth above, including misrepresentations of the non-profit status and counseling experience offered by defendant FCCC in violation of 15 U.S.C. §1679b(a)(3).

89. Defendants failed to make the disclosures required by 15 U.S.C. §1679c to Plaintiff and other members of the Class, and specifically the statement regarding "Consumer Credit File Rights Under State and Federal Law. "

90. Defendants' failed to comply with all the requirements of 15 U.S.C. §1679d, including defendants' failure to provide a full and detailed description of the services to be performed by the credit repair organization for the consumer.

91. Plaintiff and the Class have been damaged as a result of defendants' foregoing described violations of 15 U.S.C. § 1679 *et seq.*

92. Pursuant to 15 U.S.C. § 1679g, plaintiffs are entitled to an award of the costs of this action and reasonable attorneys fees.

93. Defendants' participation in the foregoing scheme to defraud consumers demonstrates intentional and willful conduct by the defendants, in reckless disregard of the rights of Class members for the sole purposes of making profits at the expense of consumers, thereby justifying an award of punitive damages in an amount appropriate to punish and set an example of the defendants in accordance with 15 U.S.C. § 1679g.

SECOND COUNT
VIOLATIONS OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

94. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as though set forth herein.

95. Defendants Armstrong, Gelman, and Debt Solutions are the "persons" within the meaning of 18 U.S.C. §1961(3) who conducted the affairs of the enterprise through a pattern of racketeering activity in violation of 18 U.S.C. §1962.

96. FCCC is an enterprise within the meaning of 18 U.S.C. §1961(4)

97. Defendants Armstrong, Gelman, and Debt Solutions have together formed the FCCC enterprise and conducted the affairs of the foregoing FCCC enterprise through a pattern of racketeering activity for the purposes of defrauding consumers and illegally collecting money from Plaintiff and the Class.

98. Defendants have conducted and participated in the affairs of the foregoing FCCC enterprise through a pattern of racketeering activity that includes multiple acts indictable under 18 U.S.C. §§1341 and 1343 (mail and wire fraud), as described above, including but not limited to defendants' mailing of fraudulent monthly statements to Plaintiff and the consumer Class, to intentionally mislead Plaintiff and the Class into

believing that defendants were making disbursements to their creditors pursuant to the DMPs, when in fact, defendants planned to and did convert the monies received from consumers.

99. The multiple acts indictable under 18 U.S.C. §§1341 and 1343 (mail and wire fraud) also include defendants' pattern and on-going practice of mailing to all enrollees in their DMPs, a Welcoming package to consumers containing fraudulent representations that there is a three month or more waiting period before consumers will see the payments made by defendants to creditors reflected in their statements from creditors, when in fact, during this period, defendants planned to and did retain the monies from consumers without making disbursements to the creditors of consumers under the DMPs.

100. The multiple acts indictable under 18 U.S.C. §§1341 and 1343 (mail and wire fraud) also include defendants' practice of creating and mailing or faxing fraudulent payment histories to consumers, purporting to show disbursements to creditors by defendants, when in fact, no such payments were made.

101. These multiple acts of mail and wire fraud, committed by the defendants were part of the same common scheme, plan and motive so as to constitute a pattern of criminal activity within the meaning of 18 U.S.C. §1961(1) in that these acts furthered the scheme set forth above to unlawfully obtain service fees, monthly payments and other monies from Plaintiff and members of the consumer Class under the guise of a fiduciary relationship to use such funds for payments of the debts of consumers, when in actuality defendants intended, planned and agreed to convert such funds for defendants' own financial benefit and use.

102. Defendants Armstrong, Gelman and Debt Solutions have each directly or through agents or the FCCC enterprise as specified herein repeatedly used mails or wires in interstate commerce to commit the foregoing fraudulent scheme to obtain consolidated monthly payments from Plaintiff and the consumer Class.

103. Defendants Armstrong, Gelman and Debt Solutions have each directly or through agents or the FCCC enterprise as specified herein repeatedly used mails or wires in interstate commerce to intentionally and consciously sell DMPs to Plaintiff and the consumer Class and, thereby, charge and obtain fees for services which defendants did not intend to provide, when in fact, defendants intended all along to retain and convert the monies of the Class for their own financial gain and benefit.

104. These frauds include: (a) representing that defendants will timely use and apply consumers' payments entrusted to defendants for the payment of consumers' bills pursuant to DMPs, when in fact, defendants intentionally do not make disbursements to creditors under the DMPs and instead, retain and convert the monies of consumers to defendants' own financial use and benefit; (b) representing that one of more of the defendants in this complaint provides tax-exempt, nonprofit, bona fide counseling when in fact, the FCCC enterprise operates to illegally collect money from consumers for the economic benefit of defendants and the for profit entities, defendants own and control; (c) representing that defendants DMP recommendations and enrollment originate from fiduciary evaluations of consumers' finances based on defendants' professional experience and relationship with 50,000 creditors and their established payment plan, when in fact, defendants arbitrarily set a monthly payment amount and plan without making proposals to or contact with creditors; (d) representing

that defendants will negotiate with and submit proposals for debt consolidation and payment with the creditors of consumers, when in fact, defendants do not make proposals or contact the creditors of consumers; and (e) filing tax returns for FCCC with false information portraying FCCC as a non-profit organization, when in fact, FCCC is an enterprise or vehicle which defendants operate for the economic benefit of defendants and their affiliated for profit companies.

105. In implementing the fraudulent scheme, defendants were acutely aware that Plaintiff and the members of the consumer Class were relying upon the fiduciary relationship created by enrollment in defendants DMPs and depended upon the honesty and integrity of defendants to use the monies entrusted to defendants for payment of the debts of Class members as represented by defendants in connection with the sale of their DMPs.

106. As a result of the aforementioned scheme to defraud, Plaintiff and other members of the class sustained injury in that they paid fees to defendants for debt management counseling and services which services were not performed and paid consolidated monthly payments to defendants, which were supposed to be disbursed and paid to the creditors of consumers, which monies defendants failed to pay or disburse to creditors as represented.

THIRD COUNT
VIOLATIONS OF THE RACKETEER INFLUENCED AND
CORRUPT ORGANIZATIONS ACT
CONSPIRACY TO VIOLATE 18 USC § 1962(d)

107. Plaintiff incorporates by reference the preceding paragraphs of this

Complaint as though set forth herein.

108. The defendants Armstrong, Gelman and Debt Solutions joined together to attempt to accomplish the RICO violations set forth in the Second Count above.

109. In doing so, the defendants formed a partnership and each became agents of the other for the illicit and wrongful purpose of collecting and obtaining money from consumers through FCCC as more specifically described above.

110. The defendants came to a mutual understanding to try to accomplish a common and unlawful plan, namely to engage in a pattern of racketeering as charged in the Second Count above in order to illegally collect and obtain money from Plaintiff and the Class.

111. Each of the defendants herein, knowingly and wilfully became a member of this illicit partnership and conspiracy.

112. Each of the defendants herein wilfully and knowingly agreed to join in such a conspiracy with the specific intent personally to participate in the commission of multiple acts of mail and wire fraud as defined herein.

113. As a result of the defendants' wrongful conspiratorial agreement, Plaintiff and the other members of the Class have sustained injury in that they paid fees to defendants for debt management counseling and services which services were not performed and paid consolidated monthly payments to defendants, which were supposed to be disbursed and paid to the creditors of consumers under DMPs, and which monies defendants failed to pay or disburse to creditors as represented.

FOURTH COUNT
VIOLATION OF UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

114. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as though set forth herein.

115. At all times relevant to this action, defendants were engaged in trade and commerce as defined by 73 P.S. § 201-2.

116. Plaintiff and Class members purchased defendants Debt Management Plans for personal, family or household purposes.

117. Defendants' DMPs and the Limited Powers of Attorney granted by Plaintiff and Class members in favor of Defendants, made defendants the fiduciaries of consumers owing consumers the fiduciary duties of truthfulness, care, candor and loyalty.

118. By the foregoing acts, representations and omissions, defendants violated the provisions of state consumer statutes including the Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-2. *et seq.*, and particularly 73 P.S. § 201-3 of the law, by committing one or more of the following unfair or deceptive acts or practices, prohibited by 73 P.S. § 201-2:

a. Causing likelihood of confusion or misunderstanding as to the sponsorship, affiliation, connection with, association with or certification of DMPs and debt counseling services;

b. Representing that enrollment in defendants so-called DMPs had certain characteristics, uses and/or benefits or entitled consumers to debt counseling services when they do not have;

c. Knowingly representing that consumers needed services for debt management and counseling which were not needed;

d. Engaging in a scheme of fraudulent or deceptive conduct to obtain services fees from consumers, for which no services were intended to be rendered to consumers;

e. Engaging in a scheme of fraudulent or deceptive conduct to obtain monies from consumers under the guise of a Debt Management Plan, and then failing to apply, pay or forward such monies to the creditors of consumers as represented.

119. Because defendants had contracted to act as fiduciaries for Plaintiff and members of the Class pursuant to the DMPs and the Limited Powers of Attorney, Plaintiff and Class members were entitled to and relied upon the representations and promises made by defendants.

120. As a direct and proximate result of the foregoing described conduct of defendants, Plaintiff and Class members have suffered ascertainable losses and damages, for which Plaintiff and Class members are entitled to treble damages, attorneys fees and costs of this suit under 73 P.S. § 201-9-2 (a).

121. Defendants unfair, deceptive and misleading conduct also violated statutes on states other than Pennsylvania similar to 73 P.S. § 201-2. *et seq*., causing injury and permitting redress by those Class members residing outside of Pennsylvania.

FIFTH COUNT
FOR COMMON LAW BREACHES OF FIDUCIARY DUTY

122. Plaintiff incorporates by reference the preceding paragraphs of this

Complaint as though set forth herein.

123. Each defendant contracting with Plaintiff or any Class member to create or administer a DMP is a fiduciary of those consumers owing those consumers fiduciary duties of truthfulness, care, candor and loyalty.

124. As alleged herein, Defendants breached those duties by engaging in self dealing for their own benefit and against the interests of Plaintiff and the Class.

125. Plaintiff and the Class have been injured and suffered damages as a result of Defendants' breaches of fiduciary duty.

126. Defendants' participation in the foregoing scheme to defraud consumers demonstrates intentional and willful conduct by the defendants, in reckless disregard of the rights of and fiduciary duties owed to Class members for the sole purposes of unjustly enriching defendants and making profits at the expense of consumers, thereby justifying an award of punitive damages in an amount appropriate to punish and set an example of the defendants.

SIXTH COUNT
FOR UNJUST ENRICHMENT

127. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as though set forth herein.

128. As alleged herein, Defendants have unjustly benefitted from their unlawful and inequitable acts resulting in the payment of money by Plaintiffs and Class members.

129. Defendants have and are continuing to derive profits and revenues resulting form their false, misleading, deceptive, unfair and inequitable conduct.

130. Defendants should be compelled to provide restitution to Plaintiffs and the Class members and to disgorge into a common fund or constructive trust for the benefit of Plaintiffs and the Class members, all proceeds received by Defendants as a result of any unlawful act described in this Complaint which has inured and continues to inure to the unjust enrichment of Defendants.

131. Plaintiff and the Class have no adequate remedy at law for their irreparable injuries caused by Defendants fraudulent and inequitable conduct.

132. Defendants' participation in the foregoing scheme to defraud consumers demonstrates intentional and willful conduct by the defendants, in reckless disregard of the rights of Class members for the sole purposes of enriching defendants through self-dealing and making profits at the expense of consumers, thereby justifying an award of punitive damages in an amount appropriate to punish and set an example of the defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for herself and all others similarly situated as follows:

A. Declaring this action to be a proper class action and designating Plaintiff as the Class representative and Plaintiff's counsel for the Class;

B. Awarding Plaintiff and the Class compensatory, statutory, and punitive damages as allowed by law and to be determined at trial;

C. Preliminarily and permanently enjoining Defendants from continuing their illegal practices;

D. Awarding Plaintiff and the other members of the Class treble damages;

E. Awarding Plaintiff and the other members of the Class their costs and expenses, including reasonable attorneys fees, expert fees, and other costs and disbursements;

F. Awarding Plaintiff and the other members of the Class such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Dated: November , 2004

Respectfully submitted,

/s/

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